



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]

DECISION

BCS/142843

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 02, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 04, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Mary Hartung  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal with the Division of Hearings and Appeals on August 2, 2012 with the appeal indicating that Petitioner was contesting a termination of medical assistance benefits.

3. Petitioner was sent a notice of decision dated September 19, 2011 that informed Petitioner that her BadgerCare+ Core benefits were ending on October 1, 2011 because she had not completed a required review. That notice was sent to Petitioner at the above address does contain appeal instructions. Those instructions indicate that the filing deadline for appeal was November 16, 2011.
4. Petitioner apparently requested health benefits again on or about April 2, 2012. She was sent a denial notice dated April 23, 2012 that informed Petitioner that she did not meet the criteria necessary for health care benefits. That notice was sent to Petitioner at the above address; it contains appeal instructions and the appeal deadline is noted to be June 8, 2012.

### **DISCUSSION**

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the county agency decision. §49.45(5)(a), *Wis. Stats.* Here it is apparent that the hearing was requested after the November 16, 2011 and June 8, 2012 appeal filing deadlines. Thus the appeal is untimely and the Division of Hearings and Appeals without authority to act.

### **CONCLUSIONS OF LAW**

That this appeal was not timely filed thus the Division of Hearings and Appeals is without authority to make a determination on the merits of the matter.

**THEREFORE, it is**

### **ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

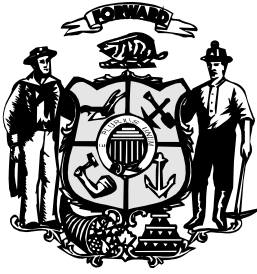
The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 16th day of October, 2012

---

David D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSDHADHCAA@Wisconsin.gov -  
DHSDHADHCAA@Wisconsin.gov  
DHSMILESFAIRHEARINGS@dhs.wisconsin.gov, DHSMILESFAIRHEARINGS@dhs.wisconsin.gov - Milw.  
Enrollment Services



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 16, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability